



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/810,927	03/16/2001	Eugene Medlock	01017/36917A	7150

4743 7590 01/25/2005

MARSHALL, GERSTEIN & BORUN LLP
6300 SEARS TOWER
233 S. WACKER DRIVE
CHICAGO, IL 60606

EXAMINER

ANDRES, JANET L

ART UNIT PAPER NUMBER

1646

DATE MAILED: 01/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/810,927	Applicant(s) MEDLOCK ET AL.	
	Examiner Janet L. Andres	Art Unit 1646	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4-12,14,59-61,74,75,91,92,97-100 and 102-104 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4-12,14,59-61,91,92,97-100 and 102-104 is/are allowed.
- 6) ☒ Claim(s) 74 and 75 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

RESPONSE TO AMENDMENT

1. Applicant's amendment filed 1 November 2004 is acknowledged. Claims 4-12, 14, 59-61, 74, 75, 91, 92, 97-100 and 102-104 are pending and under examination in this office action. The text of those sections of Title 35, U.S. Code, not included in this action can be found in a prior office action.

Claim Rejections Withdrawn

2. The rejection of claims 4-6, 10-12, 14, 59-61, 91, 92, 97-99, and 101-104 under 35 U.S.C. 102(a) as anticipated by WO 99/14240 and under 35 U.S.C. 102(e) as anticipated by US 2002/0102639 is withdrawn in response to Applicant's amendment limiting the scope of these claims.

3. The rejection of claims 4-6, 10-12, 14, 59-61, 91, 92, 97-99, and 101-104 under 35 U.S.C. 102(e) as anticipated by WO 01/46420 is withdrawn in response to Applicant's amendment limiting the scope of these claims.

4. The rejection of claims 102-104 under 35 U.S.C. 112, first paragraph, as lacking enablement is withdrawn in response to Applicant's assurance with respect to the deposits.

5. The rejection of claims 5-11 under 35 U.S.C. 101 as encompassing non-statutory subject matter is withdrawn in response to Applicant's amendment requiring that the cells be isolated.

Claim Rejections Maintained

6. The rejection of claims 74 and 75 under 35 U.S.C. 102(e) as anticipated by WO 01/46420 is maintained for reasons of record in the office action of 30 June 2004.

These claims have not been amended and still encompass polynucleotides encoding SEQ ID NO: 2 or 7. As stated in the previous office action, WO 01/64620 teaches such a sequence.

CLAIMS 74 AND 75 ARE REJECTED. CLAIMS 4-12, 14, 59-61, 91, 92, 97-100 AND 102-104 ARE ALLOWED.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet L. Andres whose telephone number is 571-272-0867. The examiner can normally be reached on Monday, Tuesday, Thursday, Friday, 8:30-5:00.

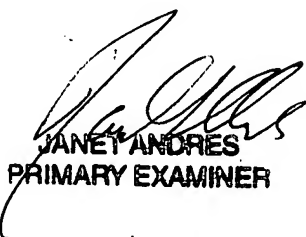
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Caputa can be reached on 571-272-0829. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 1646

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Janet L. Andres, Ph.D.

21 January 2004



JANET ANDRES
PRIMARY EXAMINER